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22TE-CC00139 - DAILING LEGACY LLC ET AL V UPTON TOWNSHIP ET  
AL (E-CASE)

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09/02/2022 ☐ **Amended Motion/Petition Filed**

Plaintiffs Second Amended Petition for Equitable and Injunction Relief; Exhibit A; Exhibit B; Electronic Filing Certificate of Service.

**Filed By:** TYCE STUART SMITH**On Behalf Of:** DAILING LEGACY LLC08/11/2022 ☐ **Entry of Appearance Filed**

Entry of Appearance; Electronic Filing Certificate of Service.

**Filed By:** RACHEL ANNE RISO**On Behalf Of:** JARED SHEPPARD☐ **Answer Filed**

Answer to Petition for Equitable and Injunction Relief; Electronic Filing Certificate of Service.

**Filed By:** RACHEL ANNE RISO**On Behalf Of:** UPTON TOWNSHIP, DON STILLEY, DARCIE MAY MANION, JARED SHEPPARD☐ **Motion Filed**

Defendants Motion to Join Plaintiffs Causes of Action and Suggestions in Support; Electronic Filing Certificate of Service.

**Filed By:** RACHEL ANNE RISO**On Behalf Of:** UPTON TOWNSHIP, DON STILLEY, DARCIE MAY MANION, JARED SHEPPARD07/28/2022 ☐ **Entry of Appearance Filed**

Entry of Appearance; Electronic Filing Certificate of Service.

**Filed By:** RACHEL ANNE RISO**On Behalf Of:** UPTON TOWNSHIP, DON STILLEY, DARCIE MAY MANION07/13/2022 ☐ **Summons Personally Served**

Document ID - 22-SMCC-388; Served To - MANION, DARCIE MAY; Server - ; Served Date - 12-JUL-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

☐ **Notice of Service**

RETURN OF SERVICE-SERVED-22-SMCC-388-DARCIE MANION

**Filed By:** TYCE STUART SMITH**On Behalf Of:** DAILING LEGACY LLC07/11/2022 ☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-388, for MANION, DARCIE MAY.

Case 6:22-cv-03236-LMC Document 1-1 Filed 09/12/22 Page 2 of 58

**07/08/2022** ☐ **Request Filed**

Request for Issuance of Alias Summons.

**Filed By:** TYCE STUART SMITH**On Behalf Of:** DAILING LEGACY LLC**06/21/2022** ☐ **Summons Personally Served**

Document ID - 22-SMCC-337; Served To - SHEPPARD, JARED; Server - ; Served Date - 15-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

☐ **Summons Returned Non-Est**

Document ID - 22-SMCC-336; Served To - MANION, DARCIE MAY; Server - ; Served Date - 17-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Non-est; Service Text - Subject no longer resides at address

☐ **Summons Personally Served**

Document ID - 22-SMCC-335; Served To - STILLEY, DON; Server - ; Served Date - 15-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

☐ **Summons Personally Served**

Document ID - 22-SMCC-338; Served To - UPTON TOWNSHIP; Server - ; Served Date - 15-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

**06/20/2022** ☐ **Notice of Service**

Service Returned non-est 22-SMCC-337

**Filed By:** TYCE STUART SMITH**On Behalf Of:** DAILING LEGACY LLC☐ **Notice of Service**

Service Returned non-est 22-SMC-336

**Filed By:** TYCE STUART SMITH☐ **Notice of Service**

Service Returned served 22-SMC-335

**Filed By:** TYCE STUART SMITH☐ **Notice of Service**

Service Returned served 22-SMCC-338

**Filed By:** TYCE STUART SMITH**06/03/2022** ☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-338, for UPTON TOWNSHIP.

☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-337, for SHEPPARD, JARED.

☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-336, for MANION, DARCIE MAY.

☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-335, for STILLEY, DON.

☐ **Summons Returned Non-Est**

Document ID - 22-SMCC-294; Served To - MANION, DARCIE MAY; Server - ; Served Date - 03-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Non-est; Service Text - NOT SENT OUT FOR SERVICE

☐ **Summons Returned Non-Est**

Document ID - 22-SMCC-293; Served To - STILLEY, DON; Server - ; Served Date - 03-JUN-22; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Non-est;

Case 6:22-cv-00296-LWC Document 1-1 Filed 09/12/22 Page 8 of 58

Service Text - NOT SENT OUT FOR SERVICE

☐ **Summons Returned Non-Est**

Document ID - 22-SMCC-292; Served To - UPTON TOWNSHIP; Server - ; Served Date - 03-JUN-22;  
Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Non-est;  
Service Text - NOT SENT OUT FOR SERVICE

☐ **Note to Clerk eFiling**

**Filed By:** TYCE STUART SMITH

☐ **Notice of Service**

RETURN OF SERVICE-NON-EST-22-SMCC-294-DARCIE MANION

**Filed By:** TYCE STUART SMITH

**On Behalf Of:** CLARENCE W DAILING, PEGGY JEAN DAILING

☐ **Notice of Service**

RETURN OF SERVICE-NON-EST-22-SMCC-293-DON STILLEY

**Filed By:** TYCE STUART SMITH

☐ **Request Filed**

Request for Issuance of Summons.

**Filed By:** TYCE STUART SMITH

☐ **Notice of Service**

RETURN OF SERVICE-NON-EST-22-SMCC-292-UPTON TOWNSHIP

**Filed By:** TYCE STUART SMITH

☐ **Amended Motion/Petition Filed**

Plaintiffs First Amended Petition for Equitable and Injunction Relief; Exhibit A - Quit Claim Deed;  
Exhibit B - Petition other case.

**Filed By:** TYCE STUART SMITH

☐ **Note to Clerk eFiling**

**Filed By:** TYCE STUART SMITH

☐ **Confid Filing Info Sheet Filed**

Confidential Case Filing Information Sheet - Non-Domestic Relations.

**Filed By:** TYCE STUART SMITH

**On Behalf Of:** CLARENCE W DAILING, PEGGY JEAN DAILING

**05/24/2022** ☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-294, for MANION, DARCIE MAY.

☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-293, for STILLEY, DON.

☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-292, for UPTON TOWNSHIP.

☐ **Order - Special Process Server**

ORDER FOR SPECIAL PROCESS SERVER.

**Associated Entries:** 05/24/2022 - **Motion Special Process Server** 

☐ **Filing Info Sheet eFiling**

**Filed By:** TYCE STUART SMITH

☐ **Note to Clerk eFiling**

**Filed By:** TYCE STUART SMITH

☐ **Proposed Order Filed**

Order Appointing Special Process Server.


**Filed By:** TYCE STUART SMITH

**On Behalf Of:** CLARENCE W DAILING, PEGGY JEAN DAILING

☐ **Motion Special Process Server**

Application for Order Appointing Special Process Server.

**Filed By:** TYCE STUART SMITH

**Associated Entries:** 05/24/2022 - **Order - Special Process Server** 

☐ **Pet Filed in Circuit Ct**

Petition for Equitable and Injunction Relief; Exhibit A.

**Filed By:** TYCE STUART SMITH

☐ **Judge Assigned**

## IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

CLARENCE DAILING, and,  
PEGGY DAILING,

Plaintiffs,

v.

UPTON TOWNSHIP,  
DON STILLEY, and  
DARCIE MANION,

Defendants.

Case No.: \_\_\_\_\_

**PETITION FOR EQUITABLE AND INJUNCTION RELIEF**

**COME NOW**, the Plaintiffs Clarence Dailing and Peggy Dailing, and for their cause of action against the Defendants, Upton Township Don Stilley, President of the Board of Upton Township in his official capacity, and Darcie Manion, Board Member in her official position, state as follows:

1. The Plaintiffs are husband and wife, who jointly own large amounts of farm acreage in the corporate limits of Upton Township in Texas County, Missouri.
2. Upton Township is a legally formed and operating Missouri township located in Texas County, Missouri.
3. Upton Township is a Missouri governmental entity legally authorized to sue and be sued.
4. The Defendant Don Stilley is sued in his official capacity as President of the township board.
5. Darcie Manion is sued in her official capacity as a member of the Upton Township Board.
6. Upton Township has, as a part of its governmental duties, to maintain designated roads and bridges inside the corporate city limits of the township.

6. The Plaintiffs have a cow/calf operation on approximately 7,000 acres located within the boundaries of Upton Township, with approximately two thousand (2000) cows being located on the Plaintiff's real estate in Upton Township.

7. The Plaintiffs have gates on their pasture located on Turley Road and other roads maintained by the township. These gates include entry gates for movement and transfer of cattle from pastures and related activities like feeding, caring for, medicating and other activities necessary to operate the Plaintiffs' cow/calf operation.

8. The Plaintiffs have five or six men who are employees who assist in the operation of their cow/calf operation.

9. The operation of the Plaintiff cow/calf operation requires the Plaintiffs' employees to enter their real estate through entry gates and bordering roads maintained by the employees of the township with pickups, farm equipment, hay and other tools and other items necessary to operate the cow/calf operation.

10. On or about April 1, 2022, the Plaintiffs filed a lawsuit against Upton Township under Texas County Circuit Court Case Number 22TE-CC00085.

11. A true copy of Texas County Petition is attached hereto as **Exhibit A**.

12. In retaliation for the lawsuit, employees of Upton Township, in the course of their employment, have performed the following acts to hinder the Plaintiffs' cow/calf operation:

a. Made Turley Road a one-way road by using the grader to pull out gravel from the side ditches and forming the gravel so that Turley Road is a one-lane instead of a two-lane road.

b. Cut deep ditches in front of the entry gates to the Plaintiffs' real estate on Turley Road as at other locations so that the Plaintiffs vehicles could not enter the Plaintiffs' pasture.

c. Piled a large amount of gravel and chat on Turley Road in front of a bridge such as to block the use of the road and entry through gates to two of the Plaintiffs pastures.

d. The employees of the township did not cut the deep ditches for the entry gates belonging to other persons.

e. An employee for the township had a shotgun in the township grader and pickup he was driving for the purpose of dealing with the Plaintiff Clarence Dailing.

13. The Plaintiffs notified the Missouri Highway Patrol about the blockage on Turley Road and employees of the township spreading out the blocking piles of gravel on Turley Road.

14. The Plaintiffs have no legal remedy to prevent the further actions of the township against them.

15. The Plaintiffs will suffer irreparable harm unless this Court exercises its equitable jurisdiction and issues a temporary injunction followed by a permanent injunction ordering the following:

a. To grade Turley Road to establish two-way traffic; and

b. To fix the ditches in front of entry gates to the Plaintiffs' real estate so that entry is not blocked; and

c. To order the township to halt all governmental activities intended to hinder the Plaintiffs' cow/calf business operations; and

d. To Order its employees to not work with a shotgun at hand to deal with Clarence Dailing.

**WHEREFORE**, the Plaintiffs pray that the Court enter judgment in their favor; order the injunctive relief sought in paragraph 15 above, that costs of this action be taxed to Defendants and for such and further relief as the Court deems meet and just.

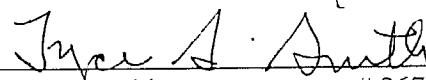


Respectfully submitted,

**SMITH & TURLEY**

Mailing: Post Office Box 494  
Waynesville, MO 65583  
Physical: 243 VFW Memorial Drive  
St. Robert, MO 65584  
Telephone: (573) 336-5222  
Facsimile: (573) 336-2282  
Email: tyce@smithturley.com  
carrie@smithturley.com

**Attorneys for Plaintiffs Clarence and  
Peggy Dailing**

By:   
Tyce S. Smith # 26703  
Carrie B. Williamson # 63326

STATE OF MISSOURI     )  
   ) ss.  
 COUNTY OF PULASKI    )

I, Peggy Dailing, of lawful age and being first duly sworn on my oath, state that I am a Plaintiff in the above and foregoing **Petition**. I further state I read and understood the same, and found the facts contained therein to be true and correct according to my best information, knowledge, and belief. I further state that I have executed the same as my own free act and deed.

Peggy Dailing  
 Peggy Dailing

Subscribed and sworn to before me this 23<sup>rd</sup> day of May, 2022.

**SHEILA K. RODGERS**  
 Notary Public, Notary Seal  
 State of Missouri  
 Pulaski County  
 (Seal) Commission # 11384202  
 My Commission Expires 11-18-2023

Sheila K. Rodgers  
 Notary Public

My Commission Expires: 11/18/2023

STATE OF MISSOURI     )  
   ) ss.  
 COUNTY OF PULASKI    )

I, Clarence Dailing, of lawful age and being first duly sworn on my oath, state that I am a Plaintiff in the above and foregoing **Petition**. I further state I read and understood the same, and found the facts contained therein to be true and correct according to my best information, knowledge, and belief. I further state that I have executed the same as my own free act and deed.

Clarence Dailing  
 Clarence Dailing

Subscribed and sworn to before me this 23<sup>rd</sup> day of May, 2022.

**SHEILA K. RODGERS**  
 Notary Public, Notary Seal  
 (Seal) State of Missouri  
 Pulaski County  
 Commission # 11384202  
 My Commission Expires 11-18-2023

Sheila K. Rodgers  
 Notary Public

My Commission Expires: 11/18/2023

IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

CLARENCE DAILING, and,  
PEGGY DAILING,

Plaintiffs,

v.

UPTON TOWNSHIP,  
DON STILLEY, and  
DARCIE MANION,

Defendants.

Case No.: 22TE-CC00139

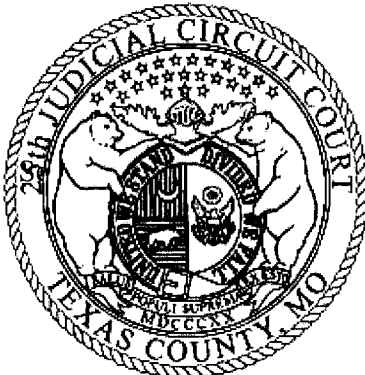
**ORDER APPOINTING SPECIAL PROCESS SERVER**

Under Local Court Rule 14.1, Plaintiffs Clarence Dailing and Peggy Dailing, request that Bruce Main, who resides in Pulaski County, Missouri, be appointed to serve process in the above styled and numbered cause comes before this court and is sustained. This appointment does not confer any power or authority as a peace or law enforcement officer and firearms may not be carried by Bruce Main.

After due consideration thereof, the court finds that Bruce Main is over 18 years of age and is not a party to this action.

The court finds that Bruce Main is qualified to serve process as allowed by Local Court Rule 14.1 and **HEREBY ORDERS AND AUTHORIZES** Bruce Main to serve citation summons and copy of Plaintiff's Petition on Defendants named in the above matter and make a due return thereof.

**IT IS SO ORDERED.**



MARCI MOSLEY  
Circuit Clerk

By: /s/ MARCI MOSLEY CIRCUIT CLERK

Deputy Clerk

*Bob Martin*

## IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

CLARENCE DAILING, and,  
 PEGGY DAILING,  
  
 Plaintiffs,

v.

UPTON TOWNSHIP,  
 DON STILLEY, and  
 DARCIE MANION,

Defendants.

Case No.: \_\_\_\_\_

APPLICATION FOR ORDER APPOINTING SPECIAL PROCESS SERVER

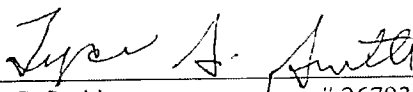
COME NOW, Plaintiffs Clarence Dailing and Peggy Dailing and, pursuant to Local Court Rule 14.1, respectfully applies to this court for an order appointing a special process server for the purpose of serving the civil petition in the above and foregoing cause of action upon Defendants. Plaintiffs request that the court appoint Bruce Main, who resides in Waynesville, Missouri, and whose mailing address is Post Office Box 130, Waynesville, Missouri 65583, as Special Process Server for the purpose of obtaining personal service on Defendant. Further, Plaintiffs state Bruce Main is over 18 years of age and is not a party to this action.

WHEREFORE, Plaintiffs Clarence Dailing and Peggy Dailing pray the court appoint Bruce Main to serve as Special Process Server for the purpose of effectuating service of a Petition upon Defendants named in the above matter.

Respectfully submitted,  
 SMITH & TURLEY

Mailing: Post Office Box 494  
 Waynesville, MO 65583  
 Physical: 243 VFW Memorial Drive  
 St. Robert, MO 65584  
 Telephone: (573) 336-5222  
 Facsimile: (573) 336-2282  
 Email: tyce@smithturley.com  
 carrie@smithturley.com

Attorneys for Plaintiffs Clarence and  
 Peggy Dailing

By:   
 Tyce S. Smith # 26703  
 Carrie B. Williamson # 63326

22TE-CC00139

IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

CLARENCE DAILING, and,	)	
PEGGY DAILING,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No.: _____
	)	
UPTON TOWNSHIP,	)	
DON STILLEY, and	)	
DARCIE MANION,	)	
	)	
Defendants.	)	

**ORDER APPOINTING SPECIAL PROCESS SERVER**

Under Local Court Rule 14.1, Plaintiffs Clarence Dailing and Peggy Dailing, request that Bruce Main, who resides in Pulaski County, Missouri, be appointed to serve process in the above styled and numbered cause comes before this court and is sustained. This appointment does not confer any power or authority as a peace or law enforcement officer and firearms may not be carried by Bruce Main.

After due consideration thereof, the court finds that Bruce Main is over 18 years of age and is not a party to this action.

The court finds that Bruce Main is qualified to serve process as allowed by Local Court Rule 14.1 and **HEREBY ORDERS AND AUTHORIZES** Bruce Main to serve citation summons and copy of Plaintiff's Petition on Defendants named in the above matter and make a due return thereof.

**IT IS SO ORDERED.**

**MARCI MOSLEY**  
Circuit Clerk

(Seal)

By: \_\_\_\_\_



IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: UPTON TOWNSHIP ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

Summons in Civil Case

**The State of Missouri to:** UPTON TOWNSHIP  
Alias: REGISTERED AGENT DON STILLEY

12001 HWY FF  
BUCYRUS, MO 65444

**COURT SEAL OF**  
  
**TEXAS COUNTY**

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5/24/2022 Date /s/ MARCI MOSLEY CIRCUIT CLERK Deputy Clerk 

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
Printed Name of Sheriff or Server

\_\_\_\_\_  
Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_  
Date Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_


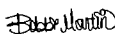
A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



# IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: JARED SHEPPARD ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

<b>The State of Missouri to: JARED SHEPPARD</b> <b>Alias:</b> 10924 TURLEY ROAD PLATO, MO 65552	
 COURT SEAL OF TEXAS COUNTY	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p style="text-align: right;"><b>/s/ MARCI MOSLEY CIRCUIT CLERK</b></p> <p style="text-align: center;"><u>6/3/2022</u> Date</p> <p style="text-align: right;">Deputy Clerk </p>

<b>Sheriff's or Server's Return</b>	
<p><b>Note to serving officer:</b> Summons should be returned to the court within 30 days after the date of issue.</p> <p>I certify that I have served the above Summons by: (check one)</p> <p><input type="checkbox"/> delivering a copy of the summons and petition to the defendant/respondent.</p> <p><input type="checkbox"/> leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with _____, a person at least 18 years of age residing therein.</p> <p><input type="checkbox"/> (for service on a corporation) delivering a copy of the summons and petition to: _____ (name) _____ (title).</p> <p><input type="checkbox"/> other: _____</p> <p>Served at _____ (address)</p> <p>in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).</p>	
Printed Name of Sheriff or Server _____	Signature of Sheriff or Server _____
<p><b>Must be sworn before a notary public if not served by an authorized officer:</b></p> <p>Subscribed and sworn to before me on _____ (date).</p> <p>(Seal)</p> <p>My commission expires: _____ Date _____ Notary Public _____</p>	

<b>Sheriff's Fees, if applicable</b>	
Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ 10.00
Supplemental Surcharge	\$ _____
Mileage	\$ _____ ( _____ miles @ \$. _____ per mile)
<b>Total</b>	\$ _____
<p>A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.</p>	




# IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DARCIE MANION ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

**The State of Missouri to: DARCIE MAY MANION**  
**Alias:**  
 9501 PEACE CHAPEL ROAD  
 PLATO, MO 65552

**COURT SEAL OF**  
  
**TEXAS COUNTY**

**You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.**

**5/24/2022** **/s/ MARCI MOSLEY CIRCUIT CLERK**  
 Date Deputy Clerk *Marci Mosley*

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
 in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
 Printed Name of Sheriff or Server Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**  
 Subscribed and sworn to before me on \_\_\_\_\_ (date).  
 (Seal)  
 My commission expires: \_\_\_\_\_  
 Date Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.






# IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

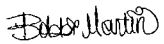
Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DON STILLEY ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

**The State of Missouri to: DON STILLEY**  
Alias:  
12216 HIGHWAY FF  
PLATO, MO 65552

**COURT SEAL OF**  
  
**TEXAS COUNTY**

**You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.**

**5/24/2022** **/s/ MARCI MOSLEY CIRCUIT CLERK**  
Date Deput Clerk 

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

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☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
Printed Name of Sheriff or Server Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**  
Subscribed and sworn to before me on \_\_\_\_\_ (date).  
(Seal)  
My commission expires: \_\_\_\_\_  
Date Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

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Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DARCIE MANION ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: DARCIE MAY MANION Alias:	
9501 PEACE CHAPEL ROAD PLATO, MO 65552	
	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p>
	<p>5/24/2022 /s/ MARCI MOSLEY CIRCUIT CLERK</p> <p>Date Deputy Clerk</p>

Further Information:	
<p><b>Sheriff's or Server's Return</b></p> <p><b>Note to serving officer:</b> Summons should be returned to the court within 30 days after the date of issue.</p> <p>I certify that I have served the above Summons by: (check one)</p> <p><input type="checkbox"/> delivering a copy of the summons and petition to the defendant/respondent.</p> <p><input type="checkbox"/> leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with _____, a person at least 18 years of age residing therein.</p> <p><input type="checkbox"/> (for service on a corporation) delivering a copy of the summons and petition to: _____ (name) _____ (title).</p> <p><input type="checkbox"/> other: _____</p> <p>Served at _____ (address)</p> <p>in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).</p>	
<p>Printed Name of Sheriff or Server</p> <p>(Seal)</p>	<p>Signature of Sheriff or Server</p> <p>Must be sworn before a notary public if not served by an authorized officer:</p> <p>Subscribed and sworn to before me on _____ (date).</p> <p>My commission expires: _____ (date)</p> <p>Notary Public</p>

<p><b>Sheriff's Fees, if applicable</b></p> <p>Summons \$ _____</p> <p>Non Est \$ _____</p> <p>Sheriff's Deputy Salary \$ 10.00</p> <p>Supplemental Surcharge \$ _____</p> <p>Mileage \$ _____ (_____ miles @ \$ _____ per mile)</p> <p>Total \$ _____</p> <p>A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.</p>	
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**COURT SEAL OF**  
  
**TEXAS COUNTY**

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☐ other: VOID

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\_\_\_\_\_  
Printed Name of Sheriff or Server

\_\_\_\_\_  
Signature of Sheriff or Server

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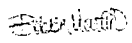
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 Date Deputy Clerk 

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☐ other: \_\_\_\_\_

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 Signature of Sheriff or Server

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(Seal)

My commission expires: \_\_\_\_\_

Date

\_\_\_\_\_  
 Notary Public

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Supplemental Surcharge \$ 10.00

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## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
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5/24/2022 /s/ MARCI MOSLEY CIRCUIT CLERK  
 Date Deput Clerk *[Signature]*

Further Information:

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Date

Notary Public

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IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

DAILING LEGACY, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 22TE-CC00139
	)	
UPTON TOWNSHIP,	)	
DON STILLEY,	)	
DARCIE MANION, and	)	
JARED SHEPPARD,	)	
	)	
Defendants.	)	

REQUEST FOR ISSUANCE OF SUMMONS

COMES NOW, Plaintiff Dailing Legacy, LLC, by and through undersigned counsel, and requests that summons be issued for Defendant Jared Sheppard at: 10924 Turley Road, Plato, Missouri 65552. Service upon Jared Sheppard will be by Bruce Main, special process server of Pulaski County Investigations. Issuance of new summonses to serve the other named defendants in the above captioned cause, at their addresses listed with the court in this matter is also requested as the name of Plaintiff and style of case has changed.

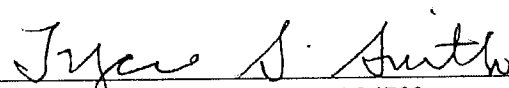
Respectfully submitted,

SMITH & TURLEY

Mailing: Post Office Box 494  
Waynesville, MO 65583  
Physical: 243 VFW Memorial Drive  
St. Robert, MO 65584  
Telephone: (573) 336-5222  
Facsimile: (573) 336-2282  
Email: tyce@smithturley.com  
carrie@smithturley.com

Attorneys for Plaintiff Dailing Legacy, LLC

By:

  
Tyce S. Smith # 26703  
Carrie B. Williamson # 63326


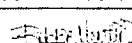
Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
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Further Information:	

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**IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI**

<b>DAILING LEGACY, LLC,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.: 22TE-CC00139</b>
	)	
<b>UPTON TOWNSHIP,</b>	)	
<b>DON STILLEY,</b>	)	
<b>DARCIE MANION, and</b>	)	
<b>JARED SHEPPARD,</b>	)	
	)	
<b>Defendants.</b>	)	

**PLAINTIFF'S FIRST AMENDED PETITION FOR EQUITABLE  
AND INJUNCTION RELIEF**

**COMES NOW**, the Plaintiff Dailing Legacy, LLC, and for its cause of action against the Defendants, Upton Township Don Stilley, President of the Board of Upton Township in his official capacity, Darcie Manion, Board Member in her official position and in her personal capacity; and, Jared Sheppard, in his personal capacity, states as follows:

1. The Plaintiff is a Delaware limited liability company in good standing.
2. The real estate owned by the Plaintiff is described in **Exhibit A**, attached hereto and incorporated herein by specific reference thereto.
3. Upton Township is a legally formed and operating Missouri township located in Texas County, Missouri.
4. Upton Township is a Missouri governmental entity legally authorized to sue and be sued.
5. The Defendant Don Stilley is sued in his official capacity as President of the township board.
6. Darcie Manion is sued in her official capacity as a member of the Upton Township Board.



7. The Defendant Jared Sheppard is a resident of Texas County and is sued in his personal capacity.

8. Upton Township has, as a part of its governmental duties, to maintain designated roads and bridges inside the corporate limits of the township.

9. The Plaintiff has a cow/calf operation on approximately 7,000 acres located within the boundaries of Upton Township, with approximately two thousand (2000) cows being located on the Plaintiff's real estate in Upton Township.

10. The Plaintiff has gates on their pasture located on Turley Road and other roads maintained by the township. These gates include entry gates for movement and transfer of cattle from pastures and related activities like feeding, caring for, medicating and other activities necessary to operate the Plaintiff's cow/calf operation.

11. The Plaintiffs have five or six men who are employees who assist in the operation of their cow/calf operation.

12. The operation of the Plaintiff's cow/calf operation requires the Plaintiff's employees to enter their real estate through entry gates and bordering roads maintained by the employees of the township with pickups, farm equipment, hay and other tools and other items necessary to operate the cow/calf operation.

13. On or about April 1, 2022, the Plaintiff's sole member and manager filed a lawsuit against Upton Township under Texas County Circuit Court Case Number 22TE-CC00085.

14. A true copy of Texas County Petition is attached hereto as **Exhibit B**.

15. In retaliation for the lawsuit, an employee of Upton Township, Defendant Jarrod Shepherd, in the course of his employment, performed, and caused to be performed, the following acts to hinder the Plaintiff's cow/calf operation:

a. Made Turley Road a one-way road by using the grader to pull out gravel from the side ditches and forming the gravel so that Turley Road is a one-lane instead of a two-lane road.

b. Cut deep ditches in front of the entry gates to the Plaintiff's real estate on Turley Road as at other locations so that the Plaintiff's vehicles could not enter the Plaintiff's pastures.

c. Piled a large amount of gravel and chat on Turley Road in front of a bridge such as to block the use of the road and entry through gates to two of the Plaintiff's pastures.

d. Did not cut the deep ditches for the entry gates belonging to other persons.

e. An employee for the township had a shotgun in the township grader and pickup he was driving for the purpose of dealing with the Plaintiff Clarence Dailing.

16. The Plaintiff's member notified the Missouri Highway Patrol about the blockage on Turley Road and an employee of the township spreading out the blocking piles of gravel on Turley Road.

17. The Plaintiff has no legal remedy to prevent the further actions of the township and its employee against this.

18. The Defendants Don Stilley and Darcie Manion control the Defendant, Jared Sheppard in their official capacity.

19. The Plaintiff will suffer irreparable harm unless this Court exercises its equitable jurisdiction and issues a temporary injunction followed by a permanent injunction ordering the following:

a. To grade Turley Road to establish two-way traffic; and

b. To fix the ditches in front of entry gates to the Plaintiffs' real estate so that entry is not blocked; and

c. To order the township to halt all governmental activities intended to hinder the Plaintiffs' cow/calf business operations; and

d. To Order Defendant Jared Sheppard to not work with a shotgun at hand to deal with Plaintiff's member Clarence Dailing.

**WHEREFORE**, the Plaintiffs pray that the Court enter judgment in their favor; order the injunctive relief sought in paragraph 15 above, that costs of this action be taxed to Defendants and for such and further relief as the Court deems meet and just.

Respectfully submitted,

**SMITH & TURLEY**

Mailing: Post Office Box 494  
Waynesville, MO 65583  
Physical: 243 VFW Memorial Drive  
St. Robert, MO 65584  
Telephone: (573) 336-5222  
Facsimile: (573) 336-2282  
Email: tyce@smithturley.com  
carrie@smithturley.com

**Attorneys for Plaintiff Dailing Legacy, LLC**

By: Tyce S. Smith # 26703  
Carrie B. Williamson # 63326

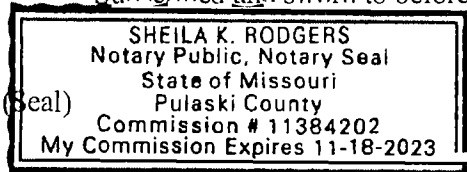
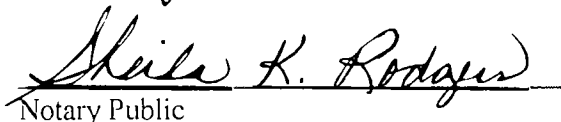
STATE OF MISSOURI     )  
   ) ss.  
 COUNTY OF PULASKI    )

I, Clarence Dailing, of lawful age and being first duly sworn on my oath, state that I am the sole member and manager of the Plaintiff in the above and foregoing **Petition**. I further state I read and understood the same, and found the facts contained therein to be true and correct according to my best information, knowledge, and belief. I further state that I have executed the same as my own free act and deed.



Clarence Dailing  
 Sole Member and Manager of  
 Dailing Legacy, LLC

Subscribed and sworn to before me this 2nd day of June, 2022.

Notary Public

My Commission Expires: 11/18/2023

Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: CLARENCE W DAILING	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
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## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: JARED SHEPPARD ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
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Alias:

10924 TURLEY ROAD  
PLATO, MO 65552

COURT SEAL OF  
  
TEXAS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

6/3/2022 /s/ MARCI MOSLEY CIRCUIT CLERK  
Date Deputy Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☒ delivering a copy of the summons and petition to the defendant/respondent.☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).☐ other: \_\_\_\_\_Served at 12015 Hwy FF, Plato (address)  
in Texas (County/City of St. Louis), MO, on 15 June 2022 (date) at 9:05 pm (time).

Bruce D Main

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

ALEISHA SAGEL  
Notary Public - Notary Seal

STATE OF MISSOURI

Pulaski County

Commission # 13835953

My Commission Expires: 07-12-2025

Subscribed and sworn to before me on June 17, 2022 (date).

My commission expires: July 12, 2025

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$

Non Est \$

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ ( miles @ \$ per mile)

Total \$

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DARCIE MANION ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: DARCIE MAY MANION Alias:	
9501 PEACE CHAPEL ROAD PLATO, MO 65552	
COURT SEAL OF  TEXAS COUNTY	You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.
6/3/2022	/s/ MARCI MOSLEY CIRCUIT CLERK
Date	Deputy Clerk
Further Information:	

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.
- ☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.
- ☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☒ other: NON-EST - Subject no longer resides at address

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Bruce D. Main

Printed Name of Sheriff or Server

Signature of Sheriff or Server

ALEISHA SAGEL  
Notary Public - Notary Seal  
STATE OF MISSOURI  
(Seal) Pulaski County  
Commission # 13835953  
My Commission Expires: 07-12-2025

Must be sworn before a notary public if not served by an authorized officer:  
Subscribed and sworn to before me on June 17, 2022 (date).  
Date July 12, 2025  
Aleisha Sagel  
Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ \_\_\_\_\_

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DON STILLEY ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: **DON STILLEY**  
Alias:

12216 HIGHWAY FF  
PLATO, MO 65552

**COURT SEAL OF**  
  
**TEXAS COUNTY**

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

6/3/2022 /s/ MARCI MOSLEY CIRCUIT CLERK  
Date Deputy Clerk *[Signature]*

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☒ delivering a copy of the summons and petition to the defendant/respondent.  
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.  
☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).  
☐ other: \_\_\_\_\_

Served at 12216 Hwy FF, Plato (address)  
in Texas (County/City of St. Louis), MO, on 15 June 2022 (date) at 9:00pm (time).

Bruce L. Main \_\_\_\_\_  
Printed Name of Sheriff or Server Signature of Sheriff or Server

**ALEISHA SAGEL** Must be sworn before a notary public if not served by an authorized officer:  
Notary Public - Notary Seal  
STATE OF MISSOURI  
(Seal) Plaski County  
Commission # 13835958, commission expires: July 12, 2025 (date).  
My Commission Expires: 07-12-2025 Aleisha Sagel  
Date Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Sheriff's Deputy Salary  
Supplemental Surcharge \$ 10.00  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.





## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Return

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: UPTON TOWNSHIP ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: UPTON TOWNSHIP  
Alias: Registered Agent Don Stilly

12001 HWY FF  
BUCYRUS, MO 65444

COURT SEAL OF  
  
TEXAS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

6/3/2022 /s/ MARCI MOSLEY CIRCUIT CLERK  
Date Deputy Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☒ delivering a copy of the summons and petition to the defendant/respondent.  
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.  
☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).  
☐ other: \_\_\_\_\_

Served at 12216 Hwy FF, Plato (address)  
 in Texas (County/City of St. Louis), MO, on 15 June 2022 (date) at 9:00pm (time).

Bruce D. Main Printed Name of Sheriff or Server  
 Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

ALEISHA SAGEL Notary Public - Notary Seal  
 STATE OF MISSOURI  
 Pulaski County  
 Commission # 13835953  
 My Commission Expires: 07-12-2025

Subscribed and sworn to before me on June 17, 2022 (date).  
July 15, 2025 My commission expires: Aleisha Sagel Notary Public  
 Date

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_  
 Non Est \$ \_\_\_\_\_  
 Sheriff's Deputy Salary \$ 10.00  
 Supplemental Surcharge \$ \_\_\_\_\_  
 Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
 Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI

DAILING LEGACY, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 22TE-CC00139
	)	
UPTON TOWNSHIP,	)	
DON STILLEY,	)	
DARCIE MANION, and	)	
JARED SHEPPARD,	)	
	)	
Defendants.	)	

REQUEST FOR ISSUANCE OF ALIAS SUMMONS


COMES NOW, Plaintiff Dailing Legacy, LLC, by and through undersigned counsel, and requests that one alias summons be issued for Defendant Darcie Manion at: 12001 Highway FF, Bucyrus, Missouri 65444. Service upon Darcie Manion will be by Bruce Main, special process server of Pulaski County Investigations.

Respectfully submitted,

SMITH & TURLEY

Mailing: Post Office Box 494  
Waynesville, MO 65583  
Physical: 243 VFW Memorial Drive  
St. Robert, MO 65584  
Telephone: (573) 336-5222  
Facsimile: (573) 336-2282  
Email: tyce@smithturley.com  
carrie@smithturley.com

Attorneys for Plaintiff Dailing Legacy, LLC

By:   
Tyce S. Smith # 26703  
Carrie B. Williamson # 63326




# IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DARCIE MANION ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	

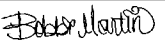
(Date File Stamp)

## Summons in Civil Case

**The State of Missouri to: DARCIE MAY MANION**  
**Alias:**  
 12001 HIGHWAY FF  
 BUCYRUS, MO 65444

**COURT SEAL OF**  
  
**TEXAS COUNTY**

**You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.**

7/11/2022      /s/ MARCI MOSLEY CIRCUIT CLERK  
 Date      Deputy Clerk 

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.  
 I certify that I have served the above Summons by: (check one)  
☐ delivering a copy of the summons and petition to the defendant/respondent.  
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.  
☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).  
☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
 in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
 Printed Name of Sheriff or Server      Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**  
 Subscribed and sworn to before me on \_\_\_\_\_ (date).  
 (Seal)  
 My commission expires: \_\_\_\_\_  
 Date      Notary Public

**Sheriff's Fees, if applicable**

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$._____ per mile)
<b>Total</b>	\$ _____

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Return



## IN THE 25TH JUDICIAL CIRCUIT, TEXAS COUNTY, MISSOURI

Judge or Division: WILLIAM EARL HICKLE	Case Number: 22TE-CC00139
Plaintiff/Petitioner: DAILING LEGACY LLC	Plaintiff's/Petitioner's Attorney/Address TYCE STUART SMITH P.O. BOX 494 WAYNESVILLE, MO 655830494
Defendant/Respondent: DARCIE MANION ET AL	Court Address: TEXAS COUNTY JUSTICE CENTER 519 NORTH GRAND AVE, STE 202 HOUSTON, MO 65483
Nature of Suit: CC Injunction	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: DARCIE MAY MANION  
Alias:

12001 HIGHWAY FF  
BUCYRUS, MO 65444

COURT SEAL OF  
  
TEXAS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

7/11/2022 /s/ MARCI MOSLEY CIRCUIT CLERK  
Date Deputy Clerk *B. Mosley*

Further Information:

**Sheriff's or Server's Return**

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☒ delivering a copy of the summons and petition to the defendant/respondent.

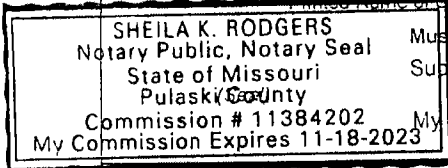
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at 12001 Hwy FF, Bucyrus (address)  
in Texas (County/City of St. Louis), MO, on 12 July 2022 (date) at 7:20 pm (time).

Bruce D. Main Signature of Sheriff or Server



Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on July 13, 2022 (date).My commission expires: 11/18/2023 Date

  
Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ \_\_\_\_\_

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

**IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI**

<b>CLARENCE DAILING and</b>	)	
<b>PEGGY DAILING,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 22TE-CC00139</b>
	)	
<b>UPTON TOWNSHIP, DON STILLEY,</b>	)	
<b>And DARCIE MANION,</b>	)	
	)	
<b>Defendant.</b>	)	

**ENTRY OF APPEARANCE**

COMES NOW Rachel A. Riso of the law firm of Ellis, Ellis, Hammons & Johnson and hereby enters her appearance on behalf of the Defendants Upton Township, Don Stilley and Darcie Manion in the above-captioned matter.

Respectfully submitted,

**ELLIS, ELLIS, HAMMONS & JOHNSON, P.C.**

By: /s/ Rachel A. Riso  
 Rachel A. Riso MBN: 57145  
[rriso@eehjfirm.com](mailto:rriso@eehjfirm.com)  
 2808 S. Ingram Mill Road, Suite A104  
 Springfield, MO 65804  
 Phone: 417-866-5091  
 Fax: 417-866-1064  
***Attorneys for Defendants***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28<sup>th</sup> day of July 2022, I electronically filed a true and correct copy of this document with the Clerk of the Court for Texas County, Missouri by using the Missouri e-Filing System. Participants in the case who are registered users will be served by the Missouri e-Filing System.

Tyce S. Smith  
Carrie B. Williamson  
Smith & Turley  
P.O. Box 494  
Waynesville, MO 65583  
[tyce@smithturley.com](mailto:tyce@smithturley.com)  
[carrie@smithturley.com](mailto:carrie@smithturley.com)  
***ATTORNEYS FOR PLAINTIFF***

/s/ Rachel A. Riso

Attorney of Record

**IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI**

<b>CLARENCE DAILING and</b>	)	
<b>PEGGY DAILING,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 22TE-CC00139</b>
	)	
<b>UPTON TOWNSHIP, DON STILLEY,</b>	)	
<b>DARCIE MANION, and</b>	)	
<b>JARED SHEPPARD,</b>	)	
	)	
<b>Defendant.</b>	)	

**ENTRY OF APPEARANCE**

COMES NOW Rachel A. Riso of the law firm of Ellis, Ellis, Hammons & Johnson and hereby enters her appearance on behalf of the Defendant Jared Sheppard in the above-captioned matter.

Respectfully submitted,

**ELLIS, ELLIS, HAMMONS & JOHNSON, P.C.**

By: /s/ Rachel A. Riso  
 Rachel A. Riso MBN: 57145  
[rriso@echjfirm.com](mailto:rriso@echjfirm.com)  
 2808 S. Ingram Mill Road, Suite A104  
 Springfield, MO 65804  
 Phone: 417-866-5091  
 Fax: 417-866-1064  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of August 2022, I electronically filed a true and correct copy of this document with the Clerk of the Court for Texas County, Missouri by using the Missouri e-Filing System. Participants in the case who are registered users will be served by the Missouri e-Filing System.

Tyce S. Smith  
Carrie B. Williamson  
Smith & Turley  
P.O. Box 494  
Waynesville, MO 65583  
[tyce@smithturley.com](mailto:tyce@smithturley.com)  
[carrie@smithturley.com](mailto:carrie@smithturley.com)  
**ATTORNEYS FOR PLAINTIFF**

/s/ Rachel A. Riso  
Attorney of Record



IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

CLARENCE DAILING and	)	
PEGGY DAILING,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 22TE-CC00139
	)	
UPTON TOWNSHIP, DON STILLEY,	)	
DARCIE MANION, and	)	
JARED SHEPPARD,	)	
	)	
Defendant.	)	

**ANSWER TO PETITION FOR EQUITABLE AND INJUNCTION RELIEF**

COME NOW Defendants Upton Township, Don Stilley, Darcie Manion and Jared Sheppard, by and through their counsel, Ellis Ellis Hammons & Johnson, P.C. and for their Answer to Plaintiffs' Petition for Equitable and Injunction Relief state and aver as follows:

1. Defendants have received two different pleadings naming different Plaintiffs. Plaintiffs' Petition filed on May 24, 2022 names Clarence Dailing and Peggy Dailing as the Plaintiffs. Plaintiffs' First Amended Petition filed on June 3, 2022 names Dailing Legacy, LLC. Without assuming to know which is the real party in interest, Defendants state they lack sufficient information with which to admit or deny the averments set forth in paragraph 1 of Plaintiffs' First Amended Petition and therefore deny the same.

2. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 2 of Plaintiffs' First Amended Petition and therefore deny the same.

3. Defendants admit the averments set forth in paragraph 3 of Plaintiffs' First Amended Petition.

4. Defendants admit the averments set forth in paragraph 4 of Plaintiffs' First Amended Petition.

5. Defendants admit Don Stilley is the President of the Upton Township Board but deny the remaining averments set forth in paragraph 5 of Plaintiffs' First Amended Petition.

6. Defendants admit Darcie Manion is currently a member of the Upton Township Board but deny the remaining averments set forth in paragraph 6 of Plaintiffs' First Amended Petition.

7. Defendants admit Jared Sheppard is a resident of Texas County but deny the remaining averments set forth in paragraph 7 of Plaintiffs' First Amended Petition.

8. Defendants admit that Upton Township maintains roads and bridges within the township but denies all remaining averments set forth in paragraph 8 of Plaintiffs' First Amended Petition.

9. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 9 of Plaintiffs' First Amended Petition and therefore deny the same.

10. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 10 of Plaintiffs' First Amended Petition and therefore deny the same.

11. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 11 of Plaintiffs' First Amended Petition and therefore deny the same.

12. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 12 of Plaintiffs' First Amended Petition and therefore deny the same.

13. Defendants admit that Clarence Dailing and Peggy Dailing filed a lawsuit against Upton Township on or about April 1, 2022, case number 22TE-CC00085, but deny all remaining averments set forth in paragraph 13 of Plaintiffs' First Amended Petition.

14. Defendants admit the averments set forth in paragraph 14 of Plaintiffs' First Amended Petition.

15. Defendants deny the averments set forth in paragraph 15 of Plaintiffs' First Amended Petition including sub-parts (a) through (e).

16. Defendants lack sufficient information with which to admit or deny the averments set forth in paragraph 16 of Plaintiffs' First Amended Petition and therefore deny the same.

17. Defendants deny the averments set forth in paragraph 17 of Plaintiffs' First Amended Petition.

18. Defendants admit that Don Stilley and Darcie Manion control the scope and course of Jared Sheppard's employment with Upon Township but deny all remaining averments set forth in paragraph 18 of Plaintiffs' First Amended Petition.

19. Defendants deny the averments set forth in paragraph 19 of Plaintiffs' First Amended Petition including sub-parts (a) through (d).

20. Further answering, Defendants state Plaintiffs' claims are barred by the doctrine of unclean hands.

Respectfully submitted,

**ELLIS, ELLIS, HAMMONS & JOHNSON, P.C.**

By: /s/ Rachel A. Riso

Rachel A. Riso MBN: 57145

rriso@eehjfirm.com

2808 S. Ingram Mill Road, Suite A104

Springfield, MO 65804

Phone: 417-866-5091

Fax: 417-866-1064

***Attorneys for Defendants***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of August 2022, I electronically filed a true and correct copy of this document with the Clerk of the Court for Texas County, Missouri by using the Missouri e-Filing System. Participants in the case who are registered users will be served by the Missouri e-Filing System.

Tyce S. Smith  
Carrie B. Williamson  
Smith & Turley  
P.O. Box 494  
Waynesville, MO 65583  
[tyce@smithturley.com](mailto:tyce@smithturley.com)  
[carrie@smithturley.com](mailto:carrie@smithturley.com)  
***ATTORNEYS FOR PLAINTIFF***

/s/ Rachel A. Riso  
Attorney of Record

IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

CLARENCE DAILING and	)	
PEGGY DAILING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 22TE-CC00139
	)	
UPTON TOWNSHIP, DON STILLEY,	)	
DARCIE MANION, and	)	
JARED SHEPPARD,	)	
	)	
Defendant.	)	

**DEFENDANTS' MOTION TO JOIN PLAINTIFFS' CAUSES OF ACTION AND SUGGESTIONS IN SUPPORT**

Defendants Upton Township, Don Stilley, Darcie Manion and Jared Sheppard, ("Defendants"), by counsel, and pursuant to its motion under Mo.R.Civ.P. 55.06(a) for joinder of Plaintiff Clarence Dailing and Peggy Dailing's two causes of action (Texas County Case Numbers 22TE-CC00085 and 22TE-CC00139), states:

1. Plaintiffs originally filed a Petition against Upton Township on April 1, 2022 alleging inverse condemnation and mandatory junction as the result of an allegedly improperly designed, built and constructed bridge and culvert adjacent to property owned by Plaintiffs.
2. On June 3, 2022, Plaintiffs filed a second lawsuit against Upton Township in addition to Don Stilley, Darcie Manion and Jared Sheppard alleging as a result of the original lawsuit, Defendants have retaliated against Plaintiffs. The second lawsuit seeks injunctive relief.
3. "Splitting a cause of action is a defendant's tool, which is used to prevent a plaintiff from taking his or her claim against the defendant and splitting it into several different suits." *Irwin v. Bertelsmeyer*, 730 S.W.2d 302 (Mo. App. 1987).

4. This issue has not been codified in Missouri, but Rule 55.06(a) provides: “Joinder of Claims. A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal or equitable, as he has against an opposing party.” *See Long v. Walters*, 833 S.W.2d 38 (Mo. App. 1992).

5. Thus, “[w]hile the Rules are silent, Missouri does have a strong common law bias against the splitting of claims. The general rule in cases such as this one is that the splitting of claims is not allowed.” *Id.* (citations omitted).

6. This doctrine arises from the judicial desirability of litigating all claims in one suit rather than wasting the court’s time on separate lawsuits for separate claims between the same parties arising from the same transaction. *Id.* (citations omitted).

7. The rule is designed to discourage a multiplicity of lawsuits and its application makes adjudication of the first suit a bar to the second. *Id.*

8. Both of Plaintiffs’ lawsuits arise out of the same main event and relevant facts. As such, compulsory joinder of Plaintiffs’ two actions is warranted.

WHEREFORE, for the reasons stated above, Defendants request that the Court enter an order joining Texas County, Missouri Case Numbers 22TE-CC00085 and 22TE-CC00139, and for such other relief as the Court deems just.

Respectfully submitted,

ELLIS, ELLIS, HAMMONS & JOHNSON, P.C.

By: /s/ Rachel A. Riso

Rachel A. Riso MBN: 57145

rriso@eehjfirm.com

2808 S. Ingram Mill Road, Suite A104

Springfield, MO 65804

Phone: 417-866-5091

Fax: 417-866-1064

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of August 2022, I electronically filed a true and correct copy of this document with the Clerk of the Court for Texas County, Missouri by using the Missouri e-Filing System. Participants in the case who are registered users will be served by the Missouri e-Filing System.

Tyce S. Smith

Carrie B. Williamson

Smith & Turley

P.O. Box 494

Waynesville, MO 65583

tyce@smithturley.com

carrie@smithturley.com

***ATTORNEYS FOR PLAINTIFF***

/s/ Rachel A. Riso

Attorney of Record

**IN THE 25TH JUDICIAL CIRCUIT COURT, TEXAS COUNTY, MISSOURI**

**DAILING LEGACY, LLC, and, )  
CLARENCE W. DAILING, individually, )**

**Plaintiff, )**

**v. )**

**Case No.: 22TE-CC00139**

**UPTON TOWNSHIP, )  
DON STILLEY, )  
DARCIE MANION, and )  
JARED SHEPPARD, )**

**Defendants. )**

**PLAINTIFF'S SECOND AMENDED PETITION FOR EQUITABLE  
AND INJUNCTION RELIEF**

**COUNT I**

**Petition Pursuant to 42 U.S.C. § 1983**

**COMES NOW**, the Plaintiff Dailing Legacy, LLC, and for Count I of its cause of action against the Defendants, allege and state as follows:

1. Dailing Legacy, LLC is a Delaware limited liability company that owns real estate in Missouri.
2. Clarence W. Dailing is the sole member and manager of Dailing Legacy, LLC.
3. Dailing Legacy, LLC owns real estate in Missouri which is described in **Exhibit A** attached hereto and which is incorporated herein by specific reference thereto.
4. Dailing Legacy, LLC operates a cattle operation in a rural area of Texas County, Missouri.
5. The cattle operation operated by Dailing Legacy, LLC is a cow/calf operation. Cows are bred, produce calves and the cattle are raised on the 8,000 acres that Dailing Legacy owns and controls in Texas County, Missouri.



6. The Defendant Upton Township is a Missouri township formed pursuant to the Revised Statutes of Missouri Chapter 65 and is located in Texas County, Missouri.
7. The real estate described in **Exhibit A** is located in Upton Township.
8. Pursuant to Missouri Revised Statutes § 15.260(1), Upton Township is a body corporate with the power to sue and be sued.
9. As part of its governmental duties, the Defendant maintains the county road and bridges in its corporate limits.
10. The Defendant Don Stilley is President of the Board of Upton Township and is sued in his official and personal capacities.
11. The Defendant Darcie Manion is a member of the Board of Upton Township and is sued in her official and personal capacities.
12. Jared Sheppard is the grader operator for the Defendant Upton Township.
13. The Plaintiff has gates on their pasture located on Turley Road and other roads maintained by the township. Those gates include entry gates for movement and transfer of cattle from pasture to pasture and related activities like feeding, caring for, medicating and other activities necessary to operate the Plaintiffs cow/calf operation.
14. The Plaintiff has five or six men who are employees who assist in the operation of their cow/calf operation.
15. The operation of the Plaintiff's cow/calf operation requires the Plaintiff's employees to enter their real estate through entry gates and bordering roads maintained by the employees of the township with pickups, farm equipment, hay and other tools and other items necessary to operate the cow/calf operation.

16. On or about April 1, 2022, the Plaintiff Clarence W. Dailing, the sole member and manager of Dailing Legacy, LLC, and his wife Peggy Dailing, filed a lawsuit against Upton Township under Texas County Circuit Court Case Number 22TE-CC00085.
17. A true copy of that Texas County Petition is attached hereto as **Exhibit B**.
18. The Plaintiff was incorrect in Case Number 22TE-CC00085 as Dailing Legacy actually owns the real estate.
19. The original petition in this case was filed June 3, 2022.
20. The original defendants were Upton Township, Don Stilley in his official capacity, Darcie Manion in her official capacity and Jared Sheppard in his personal capacity.
21. Upton Township was served with process of the original petition in this matter on June 15, 2022.
22. Don Stilley was served with process of the original petition in this matter on June 15, 2022.
23. Darcie Manion was served with process of the original petition in this matter on July 12, 2022.
24. Jared Sheppard was served with process of the original petition in this matter on June 15, 2022.
25. The original petition alleged the following at paragraph 15 of that document:  
  
“15. The Plaintiffs will suffer irreparable harm unless this Court exercises its equitable jurisdiction and issues a temporary injunction followed by a permanent injunction ordering the following:
  - a. To grade Turley Road to establish two-way traffic; and
  - b. To fix the ditches in front of entry gates to the Plaintiffs’ real estate so that entry is not blocked; and
  - c. To order the township to halt all governmental activities intended to hinder the Plaintiffs’ cow/calf business operations; and
  - d. To Order its employees to not work with a shotgun at hand to deal with Clarence Dailing.”

26. The Plaintiffs will suffer irreparable harm unless this Court exercises its equitable jurisdiction and issues a temporary injunction followed by a permanent injunction ordering the following:

- a. To grade Turley Road to establish two-way traffic; and
- b. To fix the ditches in front of entry gates to the Plaintiffs' real estate so that entry is not blocked; and
- c. To order the township to halt all governmental activities intended to hinder the Plaintiffs' cow/calf business operations; and
- d. To Order its employees to not work with a shotgun at hand to deal with Clarence Dailing.

27. Since all Defendants were served, the following has occurred:

- a. Mr. Sheppard has specifically spoken to an employee of the Plaintiff, Dallas Dailing, and threatened to kill Dallas and all of the Plaintiff's other employees.
- b. At the time of the threat to Dallas Dailing, Mr. Sheppard was driving a vehicle and performing road work for Upton Township.
- c. While driving the grader for Upton Township, Mr. Sheppard has cut at least two other deep ditches in front of gates leading into pastures owned or controlled by the Plaintiff.
- d. Mr. Sheppard attempted to cut off two employees of Plaintiff on a curve.

28. The Upton Township board members have vested Defendant Sheppard with total discretion to perform his job function as a matter of policy of Upton Township.

29. The members of the board of Upton Township are the policy makers of Upton Township pursuant to Missouri statute.

30. The original lawsuit filed by the Plaintiff on June 3, 2022 informed the board Defendants Don Stilley and Darcie Manion of the actions of Mr. Sheppard and they took no curative action.

31. The entry gates into Plaintiffs pastures are the only points of entry into those pastures which are surrounded by perimeter fences to confine cattle within Plaintiff's real property.

32. The obstructive ditches dug by Mr. Sheppard in the course of his employment constitutes a taking without compensation of the Fifth Amendment of the United States Constitution.

33. The Plaintiff has been deprived of use of multiple obstructive ditches dug by Mr. Sheppard on public road right of ways.

34. The Plaintiff has not been compensated for its property for deprivation of its use by government action.

35. The actions of the Defendants is an abuse of governmental power.

36. The Plaintiff is bringing this action pursuant to 42 U.S.C. § 1983.

37. This Court has concurrent authority to adjudicate this case with federal courts.

38. The Plaintiff is entitled to damages for deprivation of this Fifth Amendment right to utilization of their property.

39. The actions by the Defendants in both their personal and official capacities was intended to interfere with the Plaintiff's use of its real estate for its cattle business.

40. The actions by the Defendant in their personal capacities was motivated by evil or intent with reckless and callous indifference to the federally protected rights of the Plaintiff.

**WHEREFORE,** The Plaintiff seeks an award of \$100,000.00 jointly and severally against the Defendants who are sued in their personal capacity, requests this Court to award it reasonable attorney fees and costs of this action; and, requests this Court to exercise its injunction jurisdiction and enter a mandatory injunction ordering the Defendants to remediate the

ditches and cease continuation of the obstruction of Plaintiff's pastures and interference with its business.

**COUNT II**  
**Action for Equitable Relief and Injunctive Relief**

**COME NOW**, the Plaintiff Dailing Legacy, LLC, and Clarence W. Dailing, and for their cause of action against the Defendants, Upton Township Don Stilley, President of the Board of Upton Township in his official capacity, Darcie Manion, Board Member in her official position and in her personal capacity; and, Jared Sheppard, in his personal capacity, states as follows:

41. The Plaintiff, Dailing Legacy, LLC is a Delaware limited liability company in good standing.
42. The real estate owned by the Plaintiff is described in **Exhibit A**, attached hereto and incorporated herein by specific reference thereto.
43. Upton Township is a legally formed and operating Missouri township located in Texas County, Missouri.
44. Upton Township is a Missouri governmental entity legally authorized to sue and be sued.
45. The Defendant Don Stilley is sued in his official capacity as President of the township board.
46. Darcie Manion is sued in her official capacity as a member of the Upton Township Board.
47. The Defendant Jared Sheppard is a resident of Texas County and is sued in his personal capacity.
48. Upton Township has as a part of its governmental duties, to maintain designated roads and bridges inside the corporate limits of the township.

49. The Plaintiff has a cow/calf operation on approximately 8,000 acres located within the boundaries of Upton Township, with approximately two thousand (2000) cows being located on the Plaintiff's real estate in Upton Township.

50. The Plaintiff has gates on their pasture located on Turley Road and other roads maintained by the township. These gates include entry gates for movement and transfer of cattle from pastures and related activities like feeding, caring for, medicating and other activities necessary to operate the Plaintiff's cow/calf operation.

51. The Plaintiffs have five or six men who are employees who assist in the operation of their cow/calf operation.

52. The operation of the Plaintiff's cow/calf operation requires the Plaintiff's employees to enter their real estate through entry gates and bordering roads maintained by the employees of the township with pickups, farm equipment, hay and other tools and other items necessary to operate the cow/calf operation.

53. On or about April 1, 2022, the Plaintiff's sole member and manager, Plaintiff Clarence W. Dailing, filed a lawsuit against Upton Township under Texas County Circuit Court Case Number 22TE-CC00085.

54. A true copy of that Texas County Petition is attached hereto as **Exhibit B**.

55. In retaliation for the lawsuit, an employee of Upton Township, Defendant Jared Shepherd, in the course of his employment, performed, and caused to be performed, the following acts to hinder the Plaintiff's cow/calf operation:

a. Made Turley Road a one-way road by using the grader to pull out gravel from the side ditches and forming the gravel so that Turley Road is a one-lane instead of a two-lane road;

b. Cut deep ditches in front of the entry gates to the Plaintiff's real estate on Turley Road as at other locations so that the Plaintiff's vehicles could not enter the Plaintiff's pastures;

c. Piled a large amount of gravel and chat on Turley Road in front of a bridge such as to block the use of the road and entry through gates to two of the Plaintiff's pastures;

d. Did not cut the deep ditches for the entry gates belonging to other persons; and

e. An employee for the township had a shotgun in the township grader and pickup he was driving for the purpose of dealing with the Plaintiff Clarence Dailing;

f. The Defendant Jared Sheppard continued to obstruct ditches to interfere with entry of cattle and vehicles into the pasture of the Plaintiff.

g. The Defendant Jared Sheppard threatened to kill the employees of the Plaintiff.

h. The Defendant Jared Sheppard drove a vehicle to illegally cut off two employees of the Plaintiff driving Plaintiff's vehicle.

56. The Plaintiff's member notified the Missouri Highway Patrol about the blockage on Turley Road and an employee of the township spreading out the blocking piles of gravel on Turley Road.

57. The Plaintiff has no legal remedy to prevent the further actions of the township and its employee against this.

58. The Defendants Don Stilley and Darcie Manion control the Defendant, Jared Sheppard in their official capacity.

59. The Plaintiff will suffer irreparable harm unless this Court exercises its equitable jurisdiction and issues a temporary injunction followed by a permanent injunction ordering the following:

a. To grade Turley Road to establish two-way traffic; and

b. To fix the ditches in front of entry gates to the Plaintiffs' real estate so that entry is not blocked; and

c. To order the township to halt all governmental activities intended to hinder the Plaintiffs' cow/calf business operations;

d. To Order Defendant Jared Sheppard to not work with a shotgun at hand to deal with Plaintiff's member Clarence Dailing; and

e. To Order Jared Sheppard to cease all threats to the employees of the Plaintiff.

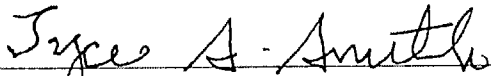
**WHEREFORE**, the Plaintiffs pray that the Court enter judgment in their favor; order the injunctive relief sought in Count I above, and the equitable relief sought in Count II above, that costs of this action be taxed to Defendants and for such and further relief as the Court deems meet and just.

Respectfully submitted,

**SMITH & TURLEY**

Mailing: Post Office Box 494  
Waynesville, MO 65583  
Physical: 243 VFW Memorial Drive  
St. Robert, MO 65584  
Telephone: (573) 336-5222  
Facsimile: (573) 336-2282  
Email: tyce@smithturley.com  
carrie@smithturley.com

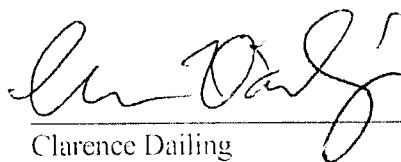
**Attorneys for Plaintiffs Dailing Legacy, LLC  
and Clarence W. Dailing**

By:   
Tyce A. Smith # 26703  
Carrie B. Williamson # 63326



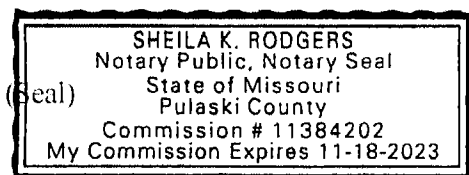
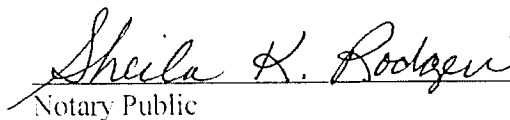
STATE OF MISSOURI     )  
   ) ss.  
 COUNTY OF PULASKI    )

I, Clarence Dailing, of lawful age and being first duly sworn on my oath, state that I am the sole member and manager of the Plaintiff in the above and foregoing **Second Amended Petition**. I further state I read and understood the same, and found the facts contained therein to be true and correct according to my best information, knowledge, and belief. I further state that I have executed the same as my own free act and deed.



Clarence Dailing  
 Sole Member and Manager of  
 Dailing Legacy, LLC

Subscribed and sworn to before me this 2nd day of September 2022.

Notary Public

My Commission Expires: 11/18/2023

